

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re PATENT application of:

Applicant: Joseph J. Harding
Application No.: 10/700, 364
Filing Date: November 2, 2003
Title: PACKAGING SYSTEM WITH VOLUME MEASUREMENT
Examiner: Christopher R. Harmon
Art Unit: 3721
Atty. Docket No. RANPP0349USA

REPLY BRIEF

MS Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This brief is submitted in support of the appeal of the decision of the Examiner mailed August 1, 2005 and in response to the Examiner's Answer mailed May 25, 2006.

First of all, the Examiner's allowance of claims 1-10 is greatly appreciated. Claims 12-15 remain at issue in this appeal.

Claims 12-15 define a system or apparatus, each of which includes either an input device or a selector device which enables or is for enabling the selection of a void-fill density from a plurality of void-fill densities. Then, based on the selected density, the

quantity of dunnage dispensed per measured volume of void is varied to provide the selected void-fill density.

The Examiner has taken the position that such a device for selecting variable density is anticipated by the disclosure in Harding (U.S. Patent No. 5, 871, 429), particularly Harding's look-up table.

Harding discloses a dunnage system that provides a required number and length of dunnage pads as determined by a bar code and a look-up table or as directly encoded into a bar code printed on a box. Harding also discloses a probe for measuring the volume of the container to be filled. But no teaching or suggestion has been found in Harding of providing any way to select a quantity of dunnage from a plurality of quantities to fill a given volume and thereby provide different densities of dunnage for that volume.

Even if Harding's look-up table did include different quantities of dunnage for a given volume, Harding fails to disclose or suggest any mechanism for selecting the desired density. The relevant passage in Harding reads as follows:

The container probe 302 may be embodied as a code reader such as a bar code reader which reads information from a container 306 for determining the amount of pad and the lengths of pads to produce to adequately cushion the container. In such an instance a bar code would be printed on or otherwise affixed to the container 306 or to a packaging invoice supplied with the container and the bar code reader would be positioned to read the bar code as the container is conveyed to or the bar code is placed at a known position relative to the machine 10. Upon reading the information from the bar code, the container probe 302 will transfer the information to the processor 48 which may use the information to instruct the machine 10 to produce the required number and lengths of pads as determined by a look-up table or as directly

encoded into the bar code. The operator would then take the pads automatically produced by the machine 10 and place them in the container 306 without further interaction between the operator and the machine.

The container probe 302 may also be in the form of probe which actually measures the void volume of the container. Such a probe may include a mechanical probe such as a plunger, an air cylinder or other low pressure probe which probes the container 306 to determine the volume of padding necessary to fill the container. A mechanical probe may probe the container 306 in one or in multiple locations to determine the amount of pad needed. The mechanical probe may also be used in conjunction with a bar code reader or used in conjunction with or supplanted with sensors which sense the dimensions or degree of fill of the container 306 including optical and ultrasonic sensors and sensor using other forms of machine vision or pattern recognition.

Harding, col. 18, lines 10-41.

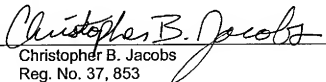
It is respectfully submitted that the only teaching or suggestion of providing different quantities of dunnage for a given volume to provide different densities of void-fill is from the present disclosure and not from Harding. Upon reading Harding, the hypothetical person of ordinary skill in the art would not have found the claimed system and apparatus to be obvious. Accordingly, the rejection is believed to be improper and should be reversed.

A credit card payment form is enclosed herewith for payment of the fees for filing this brief. No extension of time is believed to be necessary. If an extension of time is needed to make the filing of this paper timely, however, and no separate petition is attached, please consider this a petition for the requisite extension. In the event any additional fee is due in connection with the filing of this paper, the Commissioner is

authorized to charge those fees to our Deposit Account No. 18-0988 (under the above Docket Number).

Respectfully submitted,

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